Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Truth in Billing Format	)	CC Docket No. 98-170
	)	
Petition for Declaratory Ruling of Arthur Belendiuk	)	

COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), pursuant to the Public Notice released on December 9, 2016 (Report No. 3063), hereby respectfully submits its comments opposing the petition for declaratory ruling filed by Arthur Belendiuk. Mr. Belendiuk has challenged the reasonableness of wireless service provider terms and conditions ("T&Cs") which require a customer to challenge alleged overcharges within 180 days or less. He has requested that the Commission find that such T&Cs unlawfully conflict with the two-year statute of limitations in Section 415 of the Communications Act.

The Commission should reject this petition. It is well settled law that Section 415 does not apply to non-tariffed wireless services, and thus there is no basis for requiring that wireless service T&Cs mimic the Section 415 two-year statute of limitations. Moreover, there is no record evidence that existing contract T&Cs violate any truth-in-billing regulations or that market forces are somehow too weak to protect against unreasonable dispute resolution T&Cs.

Section 415(a) of the Communications Act (47 U.S.C. Section 415(a), Recovery of Charges by Carrier), states that "all actions at law by carriers for recovery of their

lawful charges, or any part thereof, shall be begun within two years from the time the cause of action accrues, and not after." Section 415(c), Recovery of Overcharges, states that "[f]or recovery of overcharges action at law shall be begun or complaint filed with the Commission against carriers within two years from the time the cause of action accrues…." Mr. Belendiuk argues that Section 415 thus entitles wireless customers to a full two years of refunds and damages for disputed overcharges.

This is incorrect. The Courts have found that the "lawful charges" subject to Section 415 are charges imposed by a carrier pursuant to a tariff filed with the FCC.[1] Wireless carriers have been prohibited from filing tariffs with the FCC for cellular service for over two decades,[2] and Section 20.15(c) of the Commission's Rules unambiguously states that "Commercial mobile radio service providers shall not file tariffs for international and interstate service to their customers, interstate access service, or international and interstate operator service." Because Section 415 "no longer applies to CMRS providers,"[3] there is no unlawful conflict between Section 415 and wireless carriers' contract T&Cs, and there is no basis for requiring wireless service providers to amend their contract T&Cs to reflect a two-year dispute or refund period.

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[1] *Castro v. Collecto, Inc.*, 668 F. Supp 2d 950 (W.D. Texas October 27, 2009) ("*Castro Order*"); upheld by the U.S. Court of Appeals, Feb. 14, 2011, 634 F. 3d 779 (5th Cir. 2011).

[2] *Implementation of 3(n) and 332 of the Communications Act*, 9 FCC Rcd 1411 (1994) ("*CMRS Second Report and Order*"). *See also, Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act*, CC Docket No. 96-61, *Second Report and Order*, 11 FCC Rcd 20730, 20762 (para. 55) (1996) (*Detariffing Second Order*) *aff'd sub nom. MCI WorldCom v. FCC*, 209 F.3d 760 (D.C. Cir. 2000) (*MCI WorldCom*) (holding that the 1996 Act granted the FCC authority to order mandatory detariffing and recognizing the anti-competitive effects of the filed rate doctrine.)

[3] *Castro Order*, p. 17.

Nor is the relief sought by Mr. Belendiuk warranted under the FCC's truth in billing rules. Mr. Belendiuk did not allege that either his bill or the relevant T&Cs were confusing or misleading. While reviewing his bill (either for the first time, or more carefully than usual), he states only that he "was surprised to find"[4] that he was being billed certain taxes and fees that he said should not have been applied to his account, but which he had "unknowingly paid and later discovered."[5] This led him to review the dispute resolution provision included in his service provider's customer agreement, which he quoted without any expression of confusion; indeed, it is apparent from the instant petition that Mr. Belendiuk understands exactly what the dispute resolution provision and process entail. The fact that a subscriber may disagree that a particular charge applies to him, or does not like the parameters of the applicable dispute resolution provision, does not mean that either the charge or the provision is misleading or untruthful.

Finally, the market for retail wireless voice and data services is vigorously competitive. There is no reason to believe that any wireless service provider can impose unreasonable terms and conditions (such as excessively onerous dispute resolution provisions) without experiencing an adverse competitive reaction. Where, as here, there is no evidence of a malfunctioning marketplace, the Commission should refrain from dictating wireless service contract provisions.

Because Section 415 clearly does not apply to non-tariffed wireless services, and because there is no record evidence that the dispute resolution provisions included in any

[4] Petition, p. 2.
[5] Petition, p. 3.

wireless carrier's contract T&Cs are misleading or unreasonable, the Commission should deny the instant petition for declaratory ruling.

Respectfully submitted,

SPRINT CORPORATION

/s/ Charles W. McKee

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